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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.   | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------|------------------|
| 10/005,820   | 12/04/2001  | William C. Schneider | MSC-23178-1           | 9636             |
| 24957  | 7590        | 09/07/2005           | EXAMINER              |                  |
| NASA JOHNSON SPACE CENTER<br>MAIL CODE HA<br>2101 NASA RD 1<br>HOUSTON, TX 77058 |             |                      | PECHHOLD, ALEXANDRA K |                  |
|  |             |                      | ART UNIT              | PAPER NUMBER     |
|  |             |                      | 3671                  |                  |

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 10/005,820             | SCHNEIDER ET AL.    |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Alexandra K. Pechhold  | 3671                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 June 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-3,5,7-10,12,13,22,24,27-30,32,40-43 and 49 is/are allowed.
- 6) Claim(s) 14,20,21 and 31 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____.  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. **Claims 14, 20, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uotila (US 5,310,277) in view of Terio (US 4,780,020).**

Regarding claims 14 and 21, Uotila discloses a device for impeding motion of a land vehicle comprising:

- a first barrier, seen as net (1<sup>1</sup>) in Fig. 9
- a second barrier, seen as net (1<sup>2</sup>) in Fig. 9, positioned alongside the first net, the first row being staggered from the second row (Col 3, lines 21-25)
- a plurality of anchors, seen as anchors (3) in Figs. 1 and 4
- each barrier comprising a net, seen as nets (1<sup>1</sup>) and (1<sup>2</sup>) in Fig. 9, and one or more flexible strips arranged to secure the net to the anchors, seen as brakes (4, 5) in Figs. 1 and 4-7, which are described by Uotila as discardable fabric brakes formed of one or several ribbons which have been woven or stitched together over a certain length, so that ribbons are forced to be torn apart when pulled (Col 2, lines 40-65).

Uotila fails to disclose a first sacrificial panel, which includes a smooth surface on one side (as recited in applicant's claim 16) and a second sacrificial panel, the first and second panels sandwiching the net therebetween (as recited in applicant's claim 17). Terio teaches a vehicle barrier comprised of I-beam posts with cable therebetween to stop a high speed vehicle (see abstract). The barrier employs panels (40), which would not only make aesthetically pleasing but would hide the functioning components of the barrier from view to protect the from weather and scrutiny by potential terrorist (Col 5, lines 1-5). Two such panels would be employed between each pair of I-beams, one in front of the cables, on in back, between the cables and webs (2, 3), respectively (Col 5, lines 5-8). The panel(s) (40) of Terio are capable of extending alongside the roadway and have means for holding up the net in a vertical position, since the panels must somehow be fixed to the net and thereby inherently are a means for holding up the net. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the barrier of Uotila to include first and second sacrificial panels sandwiching the net therebetween as taught by Terio, since Terio states in column 5, lines 1-8 that the panels would not only make the gate aesthetically pleasing but would hide the functioning components of the barrier from view to protect the from weather and scrutiny by potential terrorist, and two such panels would be employed, one in front of the cables, on in back.

Uotila also fails to disclose a first row of barriers and second row of barriers positioned end-to-end (as recited in applicant's claim 14), with each barrier having a male portion and corresponding female portion of a mated joint (as recited in applicant's

claim 21). Yet Uotila notes that it is obvious that any number of nets, such as may be considered necessary, can be placed one after the other (Col 3, lines 35-37). The nets are designed for greatest possible cover for use in stopping any passenger car that is in motion on the road (Col 4, lines 22-25). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the staggered nets in Fig. 9 of Uotila so there is a row of first and second barriers positioned end-to-end, and each barrier having corresponding male and female portions of a mated joint, since Uotila states in column 3, lines 35-37 that it is obvious that any number of nets, such as may be considered necessary, can be placed one after the other, and in column 4, lines 22-25 that the nets are designed for greatest possible cover for use in stopping any passenger car that is in motion on the road. So therefore if you have multiple side-by-side cars approaching the net, a row of barriers would be the logical solution in order to satisfy Uotila's desire for the greatest possible cover for use in stopping any passenger car that is in motion on the road, and clearly the barriers would have to be joined by some sort of mated joint.

Regarding claim 20, Uotila illustrates a plurality of support members mounted alongside the barriers, seen as posts (6) in Figs. 1 and 4.

Regarding claim 31, the combination of Uotila and Terio fails to disclose panels made of a thin layer of epoxy, concrete, or plywood, or combinations thereof. Terio fails to specify the material of panels (40). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Uotila having the panels of Terio so that the panels are made of a thin layer of epoxy,

concrete, or plywood, or combinations thereof, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

***Allowable Subject Matter***

3. Claims 1-3, 5, 7-10, 12, 13, 22, 24, 27-30, 32, 40-43, and 49 are allowed.

***Response to Arguments***

4. Applicant's arguments filed 6/6/05 are persuasive. Though the arguments highlight the differences between the prior art applied and the applicant's invention, the language of claim 14 is overly broad and therefore the prior art rejection still applies to this claim and its dependent claims. The Examiner maintains the rejection of claim 14 for two reasons: First, the language of claim 14 is broader than other independent claims in that it recites that the panel is "adapted to hold up the net in a vertical position". The panel of Terio need only be capable of holding up the net of Uotila in a vertical position, which it can be capable of doing. The claim language does not require a specific, positively-recited means for holding up the net in a vertical position, as set forth in the other independent claims. Second, claim 14 has a new limitation of "wherein the plurality of anchors do not hold up the net in a vertical position." The Examiner is viewing the "fixed anchoring points (3)" of Uotila as the claimed anchors, and these

anchors (3) of Uotila meet the limitation of not holding up the net in a vertical position. The applicant seems argues that the instant invention is distinguished from the prior art since both Uotila and Terlo utilize vertical posts to hold up the net. The Examiner does not contest this point, but the Examiner is solely viewing the anchoring points (3) of Uotila as equating to the recited anchors.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3671

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (571) 272-6994. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (571) 272-6998. The fax phone number for this Group is (703) 872-9306.

*Thomas B. Will*  
**Supervisory Patent Examiner**  
**Group 3600**

AKP  
8/29/05